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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,512	04/01/2004	Huw Edward Oliver	300203615-4	1300

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EXAMINER	
HAILU, KIBROM T	
ART UNIT	PAPER NUMBER
2616	

MAIL DATE	DELIVERY MODE
09/18/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/815,512	OLIVER ET AL.	
	Examiner	Art Unit	
	KIBROM T. HAILU	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 June 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-22* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *5-10 and 19* is/are allowed.

6)☒ Claim(s) *1-4,11-18 and 20-22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *01 April 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. The previous office action is withdrawn. However, the following action is final necessitated by the previous amendment files on 06/12/2008. Therefore, the shortened statutory period for reply to this final office action is set to expire three months from the mailing date of this action.

Claim Objections

2. Claim 1 is objected to because of the following informalities:

The claim recites, "in aid" in line 7. It is assumed to mean, "in said". Appropriate correction is required.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 16 IS rejected under 35 U.S.C. 101 because the claim is directed to non-statutory subject matter.

The claim is not statutory because the applicant claims, "a data storage media comprising: program data for controlling a first computer entity" not being executed by a device or processor [see MPEP 2106.01].

Double Patenting

4. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

5. Claims 1-4, 11-16, 19 and 18, 20-22 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-4, 11-17 and 21-25 of copending Application No. 10/815511. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 1-3, 11-18 and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over unpatentable over Pabla et al. (US 7,127,613 B2) in view of Shen (Adaptive Autonomous Management of Ad hoc Network, 2002 IEEE).

Regarding claim 1, Pabla discloses a method performed by a first computer entity (see Figs. 1A and 1B): operating a peer to peer protocol for enabling said first computer entity to utilise a resource of a second computer entity of in a peer to peer network, and for enabling said second computer entity to utilise a resource of said first computer entity in said peer to peer network (col. 13, lines 17-23; col. 19, lines 32-39; col. 20, lines 33-43 etc..). Pabla further discloses peer devices cooperate with each other and communicate each other. However, Pabla doesn't explicitly disclose the peer devices manage each other (col. 12, lines 60-62; col. 13, lines 51-53; etc.); wherin said process is automatically invoked whenever said first computer entity takes part in said peer to peer network using said peer to peer protocol (Fig. 13; col. 18, lines 17-32 in combination with col. 20, lines 44-63 and lines 33-43, illustrates by means of a vote, automatically, a peer represents to manage the other computers. Also each of the peers has its own content management services 222 to manage and facilitate content sharing using the peer group sharing protocol e.g. see co. 21, lines 13-16. And the peers are clearly nodes or computers see, col. 15, lines 6-8, 16-18).

Shen teaches the peer devices or nodes collaborate to manage each other (page 2, paragraph 2, lines 4-12).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the technique of Shen that teaches nodes collaborate to manage each other into the peer-to-peer network of Pabla in order to be able to make intelligent decisions based on network situations and conserve bandwidth.

Regarding claim 2, Pabla discloses said process comprises: determining a policy by which said first computer entity will interact with said second computer entity (col. 13, lines 9-12, 51-66; col. 21, lines 56-57).

Regarding claim 3, Pabla discloses said process comprises: adopting a policy towards said second computer entity (col. 13, lines 55-57), wherein said policy is selected from a set of pre-determined polices for determining a relationship between said first computer entity and said computer entity (col. 17, lines 44-63; col. 18, lines 17-18; col. 19, lines 15-20; col. 20, lines 39-43; col. 23, lines 59-col. 24, line 2 ... etc.).

Regarding claims 11 and 16-17, the claims include features corresponding to subject matter mentioned above to the rejected claim 1, and is applied hereto.

Regarding claim 12, Pabla discloses said network management component is activated whenever said peer to peer networking component is operational (col. 17, lines 54-63; col. 18, lines 60-67; col. 23, lines 24-31).

Regarding claim 13, Pabla discloses said network management component comprises a program data that controls resources of said peer to peer network to perform a network management service (col. 14, lines 44-57; col. 12, lines 55-67; col. 15, lines 58-60; col. 22, lines 56-59; col. 17, lines 29-31 in combination with lines 39-44 and col. 19, lines 32-39).

Regarding claim 14, Pabla discloses said network management component applies policy for determining a mode of operation of said first computer entity in relation to said second computer entity (col. 13, lines 9-12; 51-66; col. 17, lines 29-31).

Regarding claim 15, Pabla discloses said network management component operates to: communicate with a plurality of other computer entities of said network for sending and

receiving policy data concerning an operational policy towards said second computer entity (Figs. 1B and 10; col. 15, lines 50-57; col. 13, lines 51-57; col. 16, lines 61-62; col. 17, lines 29-34 in combination with col. 54-56) and determine, from a consideration of policy data received from said other computer entities, a global policy to be adopted by each computer entity in said network, towards said computer entity (col. 13, lines 55-57; col. 18, lines 26-39).

Regarding claims 18 and 20-22, Pabla discloses considering whether said second computer entity allows said first computer entity to utilise said resource of said second computer entity (see fig. 7; col. 10, lines 29-66, illustrates the first peer requests or desires to establish a peer to peer secured session to communicate and/or exchange data with the second peer).

9. Claims 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over unpatentable over Pabla in view of Gleichauf (US 7,137,145 B2), and further in view of Golle (Incentives for Sharing in Peer-to-Peer Networks, 2001, Computer Science Department, Stanford University).

As applied above, the modified peer-to-peer network of Pabla discloses managing said second computer entity comprises a process selected from the group consisting of: controlling access by said second computer entity to a communal resource stored on said first computer entity (Pabla, col. 13, lines 9-14; col. 19, line 66-col. 20, line 2; col. 15, lines 42-44; col. 18, lines 55-59);

Pabla doesn't explicitly disclose placing said second computer entity in quarantine; or applying a charge for utilisation by said second computer entity of a communal resource.

Gleichauf teaches placing said second computer entity in quarantine (col. 3, line 63-col. 4, line 11; col. 2, lines 5-10). However, Gleichauf doesn't teach applying a charge for utilisation by said at least one other computer entity of a communal resource.

Golle teaches applying a charge for utilisation by said second computer entity of a communal resource (page 5, lines 36-38, page 1, lines 25-34).

Therefore, it would have been obvious to one ordinary skill in the art at the time the invention was made to use the method of placing an infected computer in quarantine and charging a peer or user for using a resource as taught by Gleichauf and Golle, respectively into the peer-to-peer network of Pabla in order to prevent those hackers, which could cause damage, from penetrating a network undetected, and to increase the system's value to its users and so make it more competitive with other commercial P2P systems.

Allowable Subject Matter

10. Claims 5-10 and 19 are allowed.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kibrom T. Hailu whose telephone number is (571)270-1209. The examiner can normally be reached on Monday-Thursday 8:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Q. Ngo can be reached on (571)272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kibrom T Hailu/

Examiner, Art Unit 2616

/Ricky Ngo/

Supervisory Patent Examiner, Art Unit 2616